

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

Bail Appl..No. 6647 of 2007()

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[CRIME NUMBER NOT KNOWN]

PETITIONER/ACCUSED:

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AUGUSTINE JOSEPH @ THANKKAN,  
AGED 44 YEARS, S/O.JOSEPH,  
RESIDING AT MUNDATHANATHU HOUSE,  
MUTHAPPANPUZHA P.O., KOZHIKODE DISTRICT.

BY ADV. SRI.T.MADHU

RESPONDENTS: STATE:

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THE FOREST RANGE OFFICER,  
THAMARASSERY FOREST RANGE, KOZHIKODE DISTRICT,  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 06/11/2007, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

**R.BASANT, J.**

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B.A.No.6647 of 2007  
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Dated this the 6<sup>th</sup> day of November 2007

**O R D E R**

Application for anticipatory bail. The petitioner is the second accused. Altogether there are four accused persons. They face allegations under the Kerala Forest Act. The crux of the allegations is that the accused persons had trespassed into the reserve forest. Accused 1 and 2 had allegedly felled a jack tree. All the four accused together had removed the same from the forest. This, in short, is the allegation. The offence was detected by the forest officials later. Investigation revealed the complicity of accused 1 to 4. Accused 1 was arrested. He was interrogated. The logs of wood removed from the forest were seized. The implements used for cutting were also recovered. The petitioner's complicity was revealed in the course of investigation. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is innocent. He has nothing to do with the offence in question. He may, in these circumstances, be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor submits that O.R.No.27/07 of Thamarassery forest range has been registered. The petitioner has been arrayed as accused. He has got to be arrested and

interrogated. There are no circumstances justifying or warranting the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This petition may, in these circumstances, be dismissed and the petitioner may be directed to appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

**(R.BASANT, JUDGE)**

jsr





**R.BASANT, J.**

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007